

SENATE AMENDMENTS

2nd Printing

By: Goldman, Talarico

H.B. No. 1058

A BILL TO BE ENTITLED

AN ACT

relating to a franchise or insurance premium tax credit for certain housing developments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. TAX CREDIT FOR CERTAIN HOUSING DEVELOPMENTS

Sec. 171.551. DEFINITIONS. In this subchapter:

(1) "Allocation certificate" means a statement issued by the department certifying that a qualified development qualifies for credits under this subchapter and Chapter 233, Insurance Code, and specifying the total amount of the credits awarded in connection with the qualified development for the credit period.

(2) "Credit" means the low-income housing development tax credit authorized by this subchapter.

(3) "Credit period" means, with respect to a building that is part of a qualified development, the period of 10 tax years beginning with the tax year in which the building is placed in service.

(4) "Department" means the Texas Department of Housing and Community Affairs.

(5) "Development" has the meaning assigned by Section 2306.6702, Government Code.

(6) "Federal tax credit" means the federal low-income

1 housing credit created by Section 42, Internal Revenue Code.

2 (7) "Qualified basis" means the qualified basis of a
3 qualified development, as determined under Section 42, Internal
4 Revenue Code.

5 (8) "Qualified development" means a development in
6 this state that the department determines is eligible for a federal
7 tax credit and that:

8 (A) is the subject of a recorded restrictive
9 covenant requiring the development to be maintained and operated as
10 a qualified development;

11 (B) meets all applicable requirements of the
12 qualified allocation plan, as defined by Section 2306.6702,
13 Government Code; and

14 (C) for the lesser of 15 years after the
15 beginning of the credit period or the period required by the
16 department, is in compliance with:

17 (i) all accessibility and adaptability
18 requirements for a federal tax credit; and

19 (ii) Title VIII of the Civil Rights Act of
20 1968 (42 U.S.C. Section 3601 et seq.).

21 (9) "State housing credit ceiling" means \$25 million
22 each year.

23 Sec. 171.552. ENTITLEMENT TO CREDIT. A taxable entity is
24 entitled to a credit against the taxes imposed under this chapter in
25 the amount and under the limitations provided by this subchapter if
26 the taxable entity owns a direct or indirect interest in a qualified
27 development.

1 Sec. 171.553. ALLOCATION CERTIFICATE. (a) In a year during
2 a credit period, a taxable entity or an entity subject to state
3 premium tax liability as defined by Section 233.0001, Insurance
4 Code, may apply to the department for an allocation certificate in
5 connection with a development in which the taxable entity or other
6 entity owns an interest.

7 (b) The department shall issue an allocation certificate if
8 the development is a qualified development.

9 Sec. 171.554. AMOUNT OF CREDITS. (a) The department shall
10 in the manner provided by this section determine the total amount of
11 credits under this subchapter and Chapter 233, Insurance Code,
12 awarded for the credit period in connection with a qualified
13 development and indicate the amount of credits awarded on the
14 allocation certificate.

15 (b) The amount of credits awarded in connection with a
16 qualified development over the credit period must be the minimum
17 amount necessary for the financial feasibility of the qualified
18 development after considering any federal tax credit, subject to
19 the limitations of this section.

20 (c) The amount of credits awarded in connection with a
21 qualified development over the credit period may not exceed the
22 total federal tax credit awarded to the owner or owners of the
23 qualified development over the 10-year federal tax credit period.

24 (d) The manner in which the department awards the amount of
25 credits must be consistent with criteria established by the
26 department.

27 (e) The total amount of credits awarded for a year in

connection with all qualified developments financed through tax
exempt bonds may not exceed the sum of:

(1) 50 percent of the state housing credit ceiling for
the year;

(2) any unallocated credits for the preceding year;
and

(3) any credit recaptured or otherwise returned to the
department in the year.

(f) The total amount of credits awarded for a year in
connection with all qualified developments not financed through tax
exempt bonds may not exceed the sum of:

(1) 50 percent of the state housing credit ceiling for
the year;

(2) any unallocated credits for the preceding year;
and

(3) any credit recaptured or otherwise returned to the
department in the year.

Sec. 171.555. APPORTIONMENT OF CREDIT. The direct or
indirect owners of a qualified development who intend to claim a
credit under this subchapter or Chapter 233, Insurance Code, may by
agreement determine the portion of the total amount of credits
awarded under Section 171.554 that each owner is entitled to claim.
If the owners do not agree, the department shall determine the
portion each owner is entitled to claim based on each owner's
ownership interest in the qualified development.

Sec. 171.556. LENGTH OF CREDIT; LIMITATION. (a) A taxable
entity entitled to a credit under this subchapter shall claim the

1 credit in equal installments during each year of the credit period.

2 (b) The total credit claimed under this subchapter for a
3 report, including any carry forward or backward under Section
4 171.557, may not exceed the amount of franchise tax due for the
5 report after any other applicable credit.

6 Sec. 171.557. CARRY FORWARD OR BACKWARD. (a) If a taxable
7 entity is eligible for a credit that exceeds the limitations under
8 Section 171.556, the taxable entity may carry the unused credit
9 back for not more than three tax years or forward for not more than
10 10 consecutive reports following the tax year in which the
11 allocation was made. A credit carryforward from a previous report
12 is considered to be used before the current year installment.

13 (b) A credit that is not used may not be refunded.

14 Sec. 171.558. RECAPTURE. (a) The comptroller shall
15 recapture the amount of a credit claimed on a report filed under
16 this chapter from a taxable entity if, on the last day of a tax year,
17 the amount of the qualified basis of the qualified development is
18 less than the amount of the qualified basis as of the last day of the
19 prior tax year. The comptroller shall determine the amount
20 required to be recaptured using the formula provided by Section
21 42(j), Internal Revenue Code, as that section existed on January 1,
22 2023.

23 (b) A report must include any portion of credit required to
24 be recaptured, the identity of any taxable entity subject to the
25 recapture, and the amount of any credit previously allocated to the
26 taxable entity.

27 Sec. 171.559. ALLOCATION OF CREDIT. (a) If a taxable

entity receiving a credit under this subchapter is a partnership, limited liability company, S corporation, or similar pass-through entity, the taxable entity may allocate the credit to its partners, shareholders, members, or other constituent taxable entities in any manner agreed to by those entities.

(b) A taxable entity that makes an allocation under this section shall certify to the comptroller the amount of credit allocated to each constituent taxable entity or shall notify the comptroller that it has delegated the duty of certification to one constituent taxable entity that shall provide the notification to the comptroller. Each constituent taxable entity is entitled to claim the allocated amount subject to any restrictions prescribed by this subchapter.

(c) An allocation under this section is not a transfer for purposes of state law.

Sec. 171.560. FILING REQUIREMENTS AFTER ALLOCATION. A taxable entity that allocates a portion of the credit under Section 171.559, and each taxable entity to which a portion was allocated, shall file with the taxable entity's report a copy of the allocation certificate on which the credit is based.

Sec. 171.561. RULES; PROCEDURES. The department and comptroller, in consultation with each other, shall adopt rules and procedures to implement, administer, and enforce this subchapter.

Sec. 171.562. COMPLIANCE MONITORING. (a) The department, in consultation with the comptroller, shall monitor compliance with this subchapter in the same manner as the department monitors compliance with the federal tax credit program.

1 (b) The department shall report any instances of
2 noncompliance with this subchapter to the comptroller.

3 Sec. 171.563. INCLUSION OF INFORMATION IN LOW INCOME
4 HOUSING PLAN. The department shall include in the low income
5 housing plan under Section 2306.0721, Government Code, information
6 relating to the performance of the credit during the previous
7 calendar year. The information must:

8 (1) specify the number of qualified developments for
9 which allocation certificates were issued during the year and the
10 total number of units supported by the developments;

11 (2) describe each qualified development for which an
12 allocation certificate was issued during the year, including:

13 (A) location;

14 (B) household type;

15 (C) available demographic information for the
16 residents intended to be served by the development;

17 (D) the income levels intended to be served by
18 the development; and

19 (E) the rents or set-asides authorized for the
20 development;

21 (3) include housing market and demographic
22 information to demonstrate how the qualified developments,
23 supported by the tax credits under this subchapter and Chapter 233,
24 Insurance Code, are addressing the need for affordable housing in
25 their communities; and

26 (4) analyze any remaining disparities in the
27 affordability of housing within those communities.

Sec. 171.564. EXPIRATION OF SUBCHAPTER. This subchapter
expires December 31, 2035.

SECTION 2. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 233 to read as follows:

CHAPTER 233. CREDIT AGAINST CERTAIN TAXES FOR CERTAIN HOUSING

DEVELOPMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 233.0001. DEFINITIONS. In this chapter:

(1) "Allocation certificate" and "qualified development" have the meanings assigned by Section 171.551, Tax Code.

(2) "State premium tax liability" means any tax liability incurred by an entity under Chapters 221 through 226.

SUBCHAPTER B. CREDIT

Sec. 233.0051. CREDIT. An entity is eligible for a credit against the entity's state premium tax liability in the amount and under the limitations provided by this chapter if the entity owns a direct or indirect interest in a qualified development.

Sec. 233.0052. LENGTH OF CREDIT; LIMITATIONS. (a) The entity shall claim the credit in the manner provided by Section 171.556(a), Tax Code.

(b) The total credit claimed under this chapter for a report, including any carry forward or backward described by Subsection (c), may not exceed the amount of the entity's state premium tax liability due for the report after any other applicable credit.

(c) The entity may carry a surplus credit forward or

1 backward as provided by Section 171.557, Tax Code.

2 Sec. 233.0053. APPLICATION FOR CREDIT. (a) An entity must
3 apply for a credit under this chapter on or with the tax report for
4 the tax year for which the credit is claimed and submit with the
5 application a copy of the allocation certificate issued in
6 connection with the qualified development and any other information
7 required by Subchapter K, Chapter 171, Tax Code.

8 (b) The comptroller shall adopt a form for the application
9 for the credit. An entity must use this form in applying for the
10 credit.

11 Sec. 233.0054. RULES; PROCEDURES. The comptroller and the
12 Texas Department of Housing and Community Affairs, in consultation
13 with each other, shall adopt rules and procedures to implement,
14 administer, and enforce this chapter.

15 Sec. 233.0055. APPLICABLE PROVISIONS. The provisions of
16 Subchapter K, Chapter 171, Tax Code, relating to recapture,
17 allocation of credit, filing requirements after allocation, and
18 compliance monitoring apply to the credit authorized by this
19 chapter.

20 SUBCHAPTER C. EXPIRATION OF CHAPTER

21 Sec. 233.0101. EXPIRATION OF CHAPTER. This chapter expires
22 December 31, 2035.

23 SECTION 3. (a) The Texas Department of Housing and
24 Community Affairs may begin issuing allocation certificates under
25 Section 171.553, Tax Code, as added by this Act, in an open cycle
26 beginning on January 1, 2024.

27 (b) Except as provided by Subsections (d) and (e) of this

1 section, Subchapter K, Chapter 171, Tax Code, as added by this Act,
2 and Chapter 233, Insurance Code, as added by this Act, apply only to
3 a tax report originally due on or after January 1, 2026, and before
4 January 1, 2036.

5 (c) An entity may not carry back a credit under Section
6 171.557, Tax Code, as added by this Act, to a tax year the report for
7 which is originally due before January 1, 2026.

8 (d) The expiration of Subchapter K, Chapter 171, Tax Code,
9 as added by this Act, in accordance with Section 171.564, Tax Code,
10 as added by this Act, does not affect the carryforward of a credit
11 under Section 171.557, Tax Code, as added by this Act.

12 (e) The expiration of Chapter 233, Insurance Code, as added
13 by this Act, in accordance with Section 233.0101, Insurance Code,
14 as added by this Act, does not affect the carryforward of a credit
15 under Section 233.0052(c), Insurance Code, as added by this Act.

16 SECTION 4. This Act takes effect January 1, 2024.

ADOPTED

MAY 22 2023

Lacey Spaw
Secretary of the Senate

By: Goldman/Perry

H.B. No. 1058

Substitute the following for __.B. No. ____:

By: Ch Perry

C.S. __.B. No. ____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a franchise or insurance premium tax credit for certain
3 housing developments.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 171, Tax Code, is amended by adding
6 Subchapter K to read as follows:

7 SUBCHAPTER K. TAX CREDIT FOR CERTAIN HOUSING DEVELOPMENTS

8 Sec. 171.551. DEFINITIONS. In this subchapter:

9 (1) "Allocation certificate" means a statement issued
10 by the department certifying that a qualified development qualifies
11 for credits under this subchapter and Chapter 233, Insurance Code,
12 specifying the total amount of the credits awarded in connection
13 with the qualified development for the credit period, and
14 specifying the amount of credit that may be claimed each year for
15 each building that is part of the qualified development.

16 (2) "Credit" means the low-income housing development
17 tax credit authorized by this subchapter.

18 (3) "Credit period" means, with respect to a building
19 that is part of a qualified development, the period of 10 tax years
20 beginning with the tax year in which the building is placed in
21 service.

22 (4) "Department" means the Texas Department of Housing
23 and Community Affairs.

24 (5) "Development" has the meaning assigned by Section

1 2306.6702, Government Code.

2 (6) "Federal tax credit" means the federal low-income
3 housing credit created by Section 42, Internal Revenue Code.

4 (7) "Qualified basis" means the qualified basis of a
5 qualified development, as determined under Section 42, Internal
6 Revenue Code.

7 (8) "Qualified development" means a development in
8 this state:

9 (A) for which the department awards or allocates
10 a federal tax credit through the issuance of a carryover allocation
11 agreement or determination notice;

12 (B) that has not had an allocation of federal tax
13 credits terminated by or at the direction of the department;

14 (C) that is the subject of a recorded restrictive
15 covenant requiring the development to be maintained and operated as
16 a qualified development that has not been terminated and is not
17 subject to termination through any process other than the natural
18 expiration of the covenant's extended use period;

19 (D) that meets all applicable requirements of the
20 qualified allocation plan, as defined by Section 2306.6702,
21 Government Code; and

22 (E) for the duration of the extended use period
23 established in the land use restriction agreement, as defined by
24 Section 2306.6702(a)(9), Government Code, is in compliance with:

25 (i) all accessibility and adaptability
26 requirements for a federal tax credit; and

27 (ii) Title VIII of the Civil Rights Act of

1 1968 (42 U.S.C. Section 3601 et seq.).

2 (9) "State housing credit ceiling" means \$25 million
3 of credits each award year.

4 Sec. 171.552. ENTITLEMENT TO CREDIT. A taxable entity is
5 entitled to a credit against the taxes imposed under this chapter in
6 the amount and under the limitations provided by this subchapter if
7 the taxable entity owns a direct or indirect interest in a qualified
8 development.

9 Sec. 171.553. APPLICATION FOR AND ISSUANCE OF ALLOCATION
10 CERTIFICATE. (a) A taxable entity or an entity subject to state
11 premium tax liability as defined by Section 233.0001, Insurance
12 Code, must apply to the department for an allocation certificate in
13 connection with a development in which the taxable entity or other
14 entity owns an interest. The application must be submitted to the
15 department along with the application for an allocation of federal
16 tax credits in a manner prescribed by the department.

17 (b) The department shall issue an allocation certificate
18 if:

19 (1) the department approves the application submitted
20 under Subsection (a);

21 (2) the development meets the requirements to be a
22 qualified development; and

23 (3) the department awards an amount of credit to the
24 development under Section 171.554.

25 Sec. 171.554. AMOUNT OF CREDITS; METHOD OF AWARD. (a) The
26 department shall in the manner provided by this section determine
27 the total amount of credits under this subchapter and Chapter 233,

1 Insurance Code, awarded for the credit period in connection with a
2 qualified development and indicate the amount of credits awarded on
3 the allocation certificate.

4 (b) The amount of credits awarded in connection with a
5 qualified development over the credit period must be the minimum
6 amount necessary for the financial feasibility of the qualified
7 development, subject to the limitations of this section.

8 (c) The amount of credits awarded in connection with a
9 qualified development over the credit period may not exceed the
10 total federal tax credit awarded to the owner or owners of the
11 qualified development over the 10-year federal tax credit period.

12 (d) The manner in which the department awards the amount of
13 credits must be consistent with criteria established by the
14 department.

15 (e) The total amount of credits awarded for a year in
16 connection with all qualified developments financed through tax
17 exempt bonds may not exceed the sum of:

18 (1) 50 percent of the state housing credit ceiling for
19 the year;

20 (2) any portion of the state housing credit ceiling
21 for the preceding year that could have been awarded for qualified
22 developments financed through tax exempt bonds but was not awarded;
23 and

24 (3) any credits recaptured or otherwise returned to
25 the department in the year that were originally awarded in
26 connection with a qualified development financed through tax exempt
27 bonds.

1 (f) The total amount of credits awarded for a year in
2 connection with all qualified developments not financed through tax
3 exempt bonds may not exceed the sum of:

4 (1) 50 percent of the state housing credit ceiling for
5 the year;

6 (2) any portion of the state housing credit ceiling
7 for the preceding year that could have been awarded for qualified
8 developments not financed through tax exempt bonds but was not
9 awarded; and

10 (3) any credits recaptured or otherwise returned to
11 the department in the year that were originally awarded in
12 connection with a qualified development not financed through tax
13 exempt bonds.

14 (g) The department shall, in the qualified allocation plan,
15 determine the priorities and criteria for awarding credits during
16 years in which the amount of credits applied for exceeds the maximum
17 amount that may be awarded under this section.

18 Sec. 171.555. APPORTIONMENT OF CREDIT. The direct or
19 indirect owners of a qualified development who intend to claim a
20 credit under this subchapter or Chapter 233, Insurance Code, may by
21 agreement determine the portion of the total amount of credits
22 awarded under Section 171.554 that each owner is entitled to claim.
23 If the owners do not agree, the department shall determine the
24 portion each owner is entitled to claim based on each owner's
25 ownership interest in the qualified development.

26 Sec. 171.556. LENGTH OF CREDIT; LIMITATION. (a) A taxable
27 entity entitled to a credit under this subchapter shall claim the

1 credit in equal installments during each year of the credit period.

2 (b) The total credit claimed under this subchapter for a
3 report, including any carry forward or backward under Section
4 171.557, may not exceed the amount of tax due for the report after
5 any other applicable credit.

6 Sec. 171.557. CARRY FORWARD OR BACKWARD. (a) If a taxable
7 entity is eligible for a credit that exceeds the limitations under
8 Section 171.556, the taxable entity may carry the unused credit
9 back for not more than three tax years or forward for not more than
10 10 consecutive reports following the tax year in which the
11 allocation certificate was issued. A credit carryforward from a
12 previous report is considered to be used before the current year
13 installment. A credit carried back to a previous report is
14 considered to be used after any other franchise tax credit is
15 applied to that report.

16 (b) A credit that is not used may not be refunded.

17 (c) The allocation of a credit in accordance with Section
18 171.559 does not extend the period for which a credit may be carried
19 forward and does not increase the total amount of the credit that
20 may be claimed.

21 (d) An entity may not carry back a credit under this
22 subchapter to a tax year for which the report was originally due
23 before January 1, 2026.

24 Sec. 171.558. RECAPTURE. (a) If a qualified development is
25 subject to the recapture of a portion of the federal credit awarded
26 or allocated to the development, then each taxable entity or entity
27 subject to state premium tax liability as defined by Section

1 233.0001, Insurance Code, that has claimed or is entitled to claim a
2 portion of the credit under this subchapter is also subject to the
3 recapture of a portion of the credit under this subchapter.

4 (b) The amount of credit under this subchapter that is
5 subject to recapture under this section is the same percentage of
6 the amount originally awarded or allocated as the percentage of the
7 amount of the federal credit originally awarded or allocated that
8 is subject to recapture under federal law. The recapture of a credit
9 under this section is not subject to a statute of limitations
10 provided by Chapter 111.

11 (c) The owners of a qualified development that is awarded or
12 allocated a credit under this subchapter or a representative of
13 those owners shall identify each taxable entity and each entity
14 subject to state premium tax liability as defined by Section
15 233.0001, Insurance Code, that is subject to recapture of the
16 credit under this section.

17 (d) Not later than the 30th day after the date any owner of a
18 qualified development receives notice that a federal credit awarded
19 or allocated to the development is subject to recapture, the owners
20 of the development or a representative of those owners shall report
21 to the comptroller:

22 (1) the amount of federal credit originally awarded or
23 allocated to the development;

24 (2) the amount of federal credit that is subject to
25 recapture and the percentage of the amount originally awarded or
26 allocated which that amount represents; and

27 (3) each entity identified under Subsection (c).

1 Sec. 171.559. ALLOCATION OF CREDIT. (a) If a taxable
2 entity receiving a credit under this subchapter is a partnership,
3 limited liability company, S corporation, or similar pass-through
4 entity, the taxable entity may allocate the credit to its partners,
5 shareholders, members, or other constituent taxable entities in any
6 manner agreed to by those entities, regardless of the size of the
7 person's ownership interest. This section does not prohibit a
8 partner, member, or shareholder from holding an investment
9 consisting only of a credit awarded under this subchapter or a
10 federal credit.

11 (b) A taxable entity that makes an allocation under this
12 section shall certify to the comptroller the amount of credit
13 allocated to each constituent taxable entity or shall notify the
14 comptroller that it has delegated the duty of certification to one
15 constituent taxable entity that shall provide the notification to
16 the comptroller. Each constituent taxable entity is entitled to
17 claim the allocated amount subject to any restrictions prescribed
18 by this subchapter.

19 (c) An allocation under this section is not a transfer for
20 purposes of state law.

21 Sec. 171.560. FILING REQUIREMENTS AFTER ALLOCATION. A
22 taxable entity that allocates a portion of the credit under Section
23 171.559, and each taxable entity to which a portion was allocated,
24 shall file with the taxable entity's report a copy of the
25 certification or notice required by Section 171.559(b).

26 Sec. 171.561. APPLICATION FOR CREDIT. (a) A taxable entity
27 must apply for a credit under this subchapter on or with the tax

1 report for which the credit is claimed and submit with the
2 application a copy of the allocation certificate issued in
3 connection with the qualified development and any other information
4 required by the comptroller.

5 (b) The comptroller shall adopt a form for the application
6 for the credit. A taxable entity must use the form to apply for the
7 credit.

8 Sec. 171.562. RULES; PROCEDURES. The department and
9 comptroller, in consultation with each other, shall adopt rules and
10 procedures to implement, administer, and enforce this subchapter.

11 Sec. 171.563. COMPLIANCE MONITORING. (a) The department
12 shall monitor compliance with this subchapter in the same manner as
13 the department monitors compliance with the federal tax credit
14 program.

15 (b) The department shall report any instances of
16 noncompliance with this subchapter to the comptroller.

17 Sec. 171.564. INCLUSION OF INFORMATION IN LOW INCOME
18 HOUSING PLAN. The department shall include in the low income
19 housing plan under Section 2306.0721, Government Code, information
20 relating to the performance of the credit during the previous
21 calendar year. The information must:

22 (1) specify the number of qualified developments for
23 which allocation certificates were issued during the year and the
24 total number of units supported by the developments;

25 (2) describe each qualified development for which an
26 allocation certificate was issued during the year, including:

27 (A) location;

1 (B) household type;
2 (C) available demographic information for the
3 residents intended to be served by the development;
4 (D) the income levels intended to be served by
5 the development; and
6 (E) the rents or set-asides authorized for the
7 development;
8 (3) include housing market and demographic
9 information to demonstrate how the qualified developments,
10 supported by the tax credits under this subchapter and Chapter 233,
11 Insurance Code, are addressing the need for affordable housing in
12 their communities; and
13 (4) analyze any remaining disparities in the
14 affordability of housing within those communities.

15 Sec. 171.565. EXPIRATION OF AUTHORITY TO ALLOCATE CREDITS.

16 (a) After December 31, 2025, the department may not:

17 (1) reserve an amount of credit under this subchapter
18 for a qualified development for the purpose of issuing an
19 allocation certificate for the development at a later date; or
20 (2) issue an allocation certificate for a qualified
21 development unless, on or before December 31, 2025, the department
22 reserved an amount of credit under this subchapter for the
23 development for the purpose of issuing an allocation certificate at
24 a later date if the requirements for issuance of the certificate are
25 met.

26 (b) On or after January 1, 2026:

27 (1) the department may issue an allocation certificate

1 for which an amount of credit was reserved under Subsection (a)(2);
2 and

3 (2) an entity may claim a credit on a tax report as
4 provided by this subchapter or Chapter 233, Insurance Code, in
5 connection with a qualified development for which the department
6 issued an allocation certificate or reserved an amount of credit
7 before January 1, 2026.

8 Sec. 171.566. PRIORITY ALLOCATION FOR CERTAIN QUALIFIED
9 DEVELOPMENTS. (a) This section applies only to a qualified
10 development:

11 (1) that received an allocation of federal tax credits
12 under the qualified allocation plan issued by the department for
13 2021 or 2022;

14 (2) the owners or developers of which have owned the
15 land necessary for the development since at least December 31,
16 2022;

17 (3) that is not financed through tax exempt bonds; and

18 (4) that the department determines requires an
19 allocation of credit under this subchapter to secure the financial
20 feasibility of the qualified development after considering any
21 federal tax credit.

22 (b) Notwithstanding Sections 171.554(e) and (f) and subject
23 to Subsection (e) of this section, for the first year the department
24 issues allocation certificates or reserves credit amounts for the
25 purpose of issuing allocation certificates, the department shall
26 use \$5 million of the state housing credit ceiling to award credits
27 to qualified developments to which this section applies.

1 (c) The owners of a qualified development to which this
2 section applies who intend to apply for an allocation of credit
3 under this section, or a representative of those owners, must
4 notify the department of that intent before the deadline for the
5 qualified development to be placed in service. If the owners or
6 their representative provide the notice required by this
7 subsection, the deadline for the qualified development to be placed
8 in service is extended until:

9 (1) the deadline set by the department for submitting
10 an application for an allocation under this section; or

11 (2) if an application for an allocation under this
12 section is submitted before the deadline set by the department, the
13 date the department issues a decision on the application.

14 (d) An applicant for an allocation of credit under this
15 section must submit to the department:

16 (1) documents proving that the owners or developers of
17 the qualified development meet the land ownership requirement under
18 Subsection (a)(2);

19 (2) a financial analysis demonstrating that the
20 allocation is necessary to secure the financial feasibility of the
21 development as required by Subsection (a)(4); and

22 (3) any other documentation required by the department
23 to demonstrate that the qualified development meets the
24 requirements provided by Subsection (a).

25 (e) If the amount of state credits reserved under this
26 section is not fully allocated to qualified developments to which
27 this section applies, the department shall allocate the remaining

1 portion to qualified developments to which this section does not
2 apply.

3 (f) The department shall, in the qualified allocation plan,
4 determine the priorities and criteria for awarding credits under
5 this section if the amount of credits applied for exceeds the
6 maximum amount that may be awarded under this section.

7 SECTION 2. Subtitle B, Title 3, Insurance Code, is amended
8 by adding Chapter 233 to read as follows:

9 CHAPTER 233. CREDIT AGAINST CERTAIN TAXES FOR CERTAIN HOUSING
10 DEVELOPMENTS

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 233.0001. DEFINITIONS. In this chapter:

13 (1) "Allocation certificate," "credit," and
14 "qualified development" have the meanings assigned by Section
15 171.551, Tax Code.

16 (2) "State premium tax liability" means any tax
17 liability incurred by an entity under Chapter 221, 222, 223, or 224.

18 SUBCHAPTER B. CREDIT

19 Sec. 233.0051. CREDIT. (a) An entity is eligible for a
20 credit against the entity's state premium tax liability in the
21 amount and under the limitations provided by this chapter if the
22 entity owns a direct or indirect interest in a qualified
23 development.

24 (b) An entity that claims a credit under this chapter is not
25 required to pay any additional retaliatory tax under Chapter 281 as
26 a result of claiming the credit.

27 Sec. 233.0052. LENGTH OF CREDIT; LIMITATIONS. (a) The

1 entity shall claim the credit in the manner provided by Section
2 171.556, Tax Code.

3 (b) The total credit claimed under this chapter for a
4 report, including any carry forward or backward described by
5 Subsection (c), may not exceed the amount of the entity's state
6 premium tax liability due for the report after any other applicable
7 credit.

8 (c) The entity may carry a surplus credit forward or
9 backward as provided by Section 171.557, Tax Code.

10 Sec. 233.0053. APPLICATION FOR CREDIT. (a) An entity must
11 apply for a credit under this chapter on or with the tax report for
12 the tax year for which the credit is claimed and submit with the
13 application a copy of the allocation certificate issued in
14 connection with the qualified development and any other information
15 required by Subchapter K, Chapter 171, Tax Code.

16 (b) The comptroller shall adopt a form for the application
17 for the credit. An entity must use this form in applying for the
18 credit.

19 Sec. 233.0054. RULES; PROCEDURES. The comptroller and the
20 Texas Department of Housing and Community Affairs, in consultation
21 with each other, shall adopt rules and procedures to implement,
22 administer, and enforce this chapter.

23 Sec. 233.0055. APPLICABLE PROVISIONS. The provisions of
24 Subchapter K, Chapter 171, Tax Code, relating to recapture,
25 allocation of credit, apportionment of credit, length of credit,
26 filing requirements after allocation, and compliance monitoring
27 apply to the credit authorized by this chapter.

1 SUBCHAPTER C. EXPIRATION OF AUTHORITY TO ALLOCATE CREDITS

2 Sec. 233.0101. EXPIRATION OF ALLOCATION AUTHORITY; USE OF
3 ALLOCATED CREDITS. (a) The authority of the Texas Department of
4 Housing and Community Affairs to reserve credit amounts and issue
5 allocation certificates for purposes of Subchapter K, Chapter 171,
6 Tax Code, and this chapter expires as provided by Section
7 171.565(a), Tax Code.

8 (b) An entity may claim a credit under this chapter on a tax
9 report as provided by Section 171.565(b), Tax Code.

10 SECTION 3. (a) The Texas Department of Housing and
11 Community Affairs may begin reserving credit amounts for the
12 purpose of issuing allocation certificates under Subchapter K,
13 Chapter 171, Tax Code, as added by this Act, in an open cycle
14 beginning on January 1, 2024.

15 (b) Except as provided by Subsection (c) of this section,
16 Subchapter K, Chapter 171, Tax Code, as added by this Act, and
17 Chapter 233, Insurance Code, as added by this Act, apply only to a
18 tax report originally due on or after January 1, 2026, and before
19 January 1, 2036.

20 (c) The expiration of the authority to allocate credits
21 under Subchapter K, Chapter 171, Tax Code, as added by this Act, in
22 accordance with Section 171.565, Tax Code, as added by this Act,
23 does not affect the carryforward of a credit under:

- 24 (1) Section 171.557, Tax Code, as added by this Act; or
25 (2) Section 233.0052(c), Insurance Code, as added by
26 this Act.

27 SECTION 4. This Act takes effect January 1, 2024.

ADOPTED

MAY 22 2023

FLOOR AMENDMENT NO.

1

Letsy Spaw
Secretary of the Senate

BY:

Chris Pany

Amend C.S.H.B. No. 1058 (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 171.565(a), Tax Code (page 5, lines 16 and 21), strike "December 31, 2025" in both places it appears and substitute "December 31, 2029".

(2) In SECTION 1 of the bill, in added Section 171.565(b), Tax Code (page 5, line 26), strike "January 1, 2026" and substitute "January 1, 2030".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 23, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1058** by Goldman (Relating to a franchise or insurance premium tax credit for certain housing developments.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1058, As Passed 2nd House : an impact of \$0 through the biennium ending August 31, 2025.

However, the bill will result in a loss of revenue available for certification beginning in the biennium ending August 31, 2027.

Annual reductions in net tax revenue would reach \$15,000,000 upon full implementation of the bill.

General Revenue-Related Funds, Thirteen- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	(\$2,124,000)
2028	(\$4,247,000)
2029	(\$6,371,000)
2030	(\$8,493,000)
2031	(\$10,617,000)
2032	(\$12,740,000)
2033	(\$12,740,000)
2034	(\$12,740,000)
2035	(\$12,740,000)
2036	(\$12,740,000)

All Funds, Thirteen-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from General Revenue Fund</i>	<i>Probable Revenue (Loss) from Foundation School Fund</i>	<i>Probable Revenue (Loss) from Property Tax Relief Fund</i>
	1	193	304
2024	\$0	\$0	\$0
2025	\$0	\$0	\$0
2026	\$0	\$0	\$0
2027	(\$1,593,000)	(\$531,000)	(\$377,000)
2028	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2029	(\$4,778,000)	(\$1,593,000)	(\$1,130,000)
2030	(\$6,370,000)	(\$2,123,000)	(\$1,507,000)
2031	(\$7,963,000)	(\$2,654,000)	(\$1,883,000)
2032	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)
2033	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)
2034	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)
2035	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)
2036	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)

Fiscal Analysis

The bill would amend the Insurance Code and the Tax Code to provide for tax credits for certain low-income housing developments.

Chapter 171, Tax Code (franchise tax) would be amended by adding Subchapter K to provide entitlement to a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development eligible for a federal low-income housing credit under Section 42, Internal Revenue Code (IRC).

The credits would be awarded by the Texas Department of Housing and Community Affairs (TDHCA) for qualified developments based on criteria to be established by the department. The amount of credits awarded for a qualified development could not exceed the total federal tax credit awarded to the owner(s) of the development over the ten-year federal tax credit period. The total amount of credits awarded in a year could not exceed \$25 million, plus any unallocated credits for the preceding year and any credits recaptured or returned to the department. No new credits could be awarded after December 31, 2029.

A taxable entity receiving a credit would claim the credit in equal installments each year of the ten-year period beginning with the tax year in which a building that is part of a qualified development is placed in service. The credit claimed could not exceed the amount of franchise tax due for a report year, but unused credit could be carried forward or backward to reports for other tax years.

TDHCA would include in the low income housing plan the number of qualified developments for which credits were issued and the number of units supported by the developments and describe specified characteristics of the developments.

Subtitle B, Title 3, Insurance Code (relating to premium taxes) would be amended by adding Chapter 233 to provide for credit against state premium tax liability incurred under Chapters 221 through 224. Some provisions for the credit would parallel those for the credit under Subchapter K, Chapter 171, Tax Code as added by the bill.

TDHCA could begin issuing the franchise tax and premium tax credits January 1, 2024. Credits could first be claimed in tax reports originally due on or after January 1, 2026, and could not be carried back to tax reports originally due before that date.

The bill would take effect January 1, 2024.

Methodology

The bill provides that the total amount of state tax credit awards in a year may not exceed \$25 million (“state housing credit ceiling”), plus any unallocated credits for the preceding year and any credits recaptured or returned to the department. The bill requires the amount awarded in connection with any one qualified development does not exceed the total amount of federal tax credit awarded the owner(s) of the development over the ten-year federal tax credit period. State tax credits must be claimed in equal installments distributed over a ten-year period.

This estimate assumes TDHCA would, in each of calendar 2024 through 2029, annually award the maximum credit amount allowed, \$25 million for all qualified developments, as provided by the bill. Therefore, the annual \$25 million cap amounts were divided into installments and distributed over ten-year intervals, with credit claims beginning in 2027, the third year following the initial year of award to allow time for project completions followed by project inspections and credit certifications by TDHCA. The total estimated credit claims were allocated between franchise tax and insurance premium taxes and the pertinent funds based on the same proportions that certified historic structure credits were claimed against those taxes for fiscal 2022.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, CMA, SD, BRI, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 20, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1058** by Goldman (relating to a franchise or insurance premium tax credit for certain housing developments.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1058, Committee Report 2nd House, Substituted : an impact of \$0 through the biennium ending August 31, 2025.

However, the bill will result in a loss of revenue available for certification beginning in the biennium ending August 31, 2027.

Annual reductions in net tax revenue would reach \$5,000,000 upon full implementation of the bill.

General Revenue-Related Funds, Thirteen- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	(\$2,124,000)
2028	(\$4,247,000)
2029	(\$4,247,000)
2030	(\$4,247,000)
2031	(\$4,247,000)
2032	(\$4,247,000)
2033	(\$4,247,000)
2034	(\$4,247,000)
2035	(\$4,247,000)
2036	(\$4,247,000)

All Funds, Thirteen-Year Impact:

<i>Fiscal Year</i>	Probable Revenue (Loss) from <i>General Revenue Fund</i>	Probable Revenue (Loss) from <i>Foundation School Fund</i>	Probable Revenue (Loss) from <i>Property Tax Relief Fund</i>
	1	193	304
2024	\$0	\$0	\$0
2025	\$0	\$0	\$0
2026	\$0	\$0	\$0
2027	(\$1,593,000)	(\$531,000)	(\$377,000)
2028	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2029	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2030	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2031	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2032	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2033	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2034	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2035	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2036	(\$3,185,000)	(\$1,062,000)	(\$753,000)

Fiscal Analysis

The bill would amend the Insurance Code and the Tax Code to provide for tax credits for certain low-income housing developments.

Chapter 171, Tax Code (franchise tax) would be amended by adding Subchapter K to provide entitlement to a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development eligible for a federal low-income housing credit under Section 42, Internal Revenue Code (IRC).

The credits would be awarded by the Texas Department of Housing and Community Affairs (TDHCA) for qualified developments based on criteria to be established by the department. The amount of credits awarded for a qualified development could not exceed the total federal tax credit awarded to the owner(s) of the development over the ten-year federal tax credit period. The total amount of credits awarded in a year could not exceed \$25 million, plus any unallocated credits for the preceding year and any credits recaptured or returned to the department. No new credits could be awarded after December 31, 2025.

A taxable entity receiving a credit would claim the credit in equal installments each year of the ten-year period beginning with the tax year in which a building that is part of a qualified development is placed in service. The credit claimed could not exceed the amount of franchise tax due for a report year, but unused credit could be carried forward or backward to reports for other tax years.

TDHCA would include in the low income housing plan the number of qualified developments for which credits were issued and the number of units supported by the developments and describe specified characteristics of the developments.

Subtitle B, Title 3, Insurance Code (relating to premium taxes) would be amended by adding Chapter 233 to provide for credit against state premium tax liability incurred under Chapters 221 through 224. Some provisions for the credit would parallel those for the credit under Subchapter K, Chapter 171, Tax Code as added by the bill.

TDHCA could begin issuing the franchise tax and premium tax credits January 1, 2024. Credits could first be claimed in tax reports originally due on or after January 1, 2026, and could not be carried back to tax reports originally due before that date.

The bill would take effect January 1, 2024.

Methodology

The bill provides that the total amount of state tax credit awards in a year may not exceed \$25 million (“state housing credit ceiling”), plus any unallocated credits for the preceding year and any credits recaptured or returned to the department. The bill requires the amount awarded in connection with any one qualified development does not exceed the total amount of federal tax credit awarded the owner(s) of the development over the ten-year federal tax credit period. State tax credits must be claimed in equal installments distributed over a ten-year period.

This estimate assumes TDHCA would, in calendar 2024 and 2025, annually award the maximum credit amount allowed, \$25 million for all qualified developments, as provided by the bill. Therefore, the annual \$25 million cap amounts were divided into installments and distributed over ten-year intervals, with credit claims beginning in 2027, the third year following the initial year of award to allow time for project completions followed by project inspections and credit certifications by TDHCA. The total estimated credit claims were allocated between franchise tax and insurance premium taxes and the pertinent funds based on the same proportions that certified historic structure credits were claimed against those taxes for fiscal 2022.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 14, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1058** by Goldman (Relating to a franchise or insurance premium tax credit for certain housing developments.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1058, As Engrossed : an impact of \$0 through the biennium ending August 31, 2025.

However, the bill will result in a loss of revenue available for certification beginning in the biennium ending August 31, 2027.

Annual reductions in net tax revenue would reach \$25,000,000 upon full implementation of the bill.

General Revenue-Related Funds, Thirteen- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	(\$2,124,000)
2028	(\$4,247,000)
2029	(\$6,371,000)
2030	(\$8,493,000)
2031	(\$10,617,000)
2032	(\$12,740,000)
2033	(\$14,864,000)
2034	(\$16,987,000)
2035	(\$19,111,000)
2036	(\$19,111,000)

All Funds, Thirteen-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from General Revenue Fund</i>	<i>Probable Revenue (Loss) from Foundation School Fund</i>	<i>Probable Revenue (Loss) from Property Tax Relief Fund</i>
	1	193	304
2024	\$0	\$0	\$0
2025	\$0	\$0	\$0
2026	\$0	\$0	\$0
2027	(\$1,593,000)	(\$531,000)	(\$377,000)
2028	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2029	(\$4,778,000)	(\$1,593,000)	(\$1,130,000)
2030	(\$6,370,000)	(\$2,123,000)	(\$1,507,000)
2031	(\$7,963,000)	(\$2,654,000)	(\$1,883,000)
2032	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)
2033	(\$11,148,000)	(\$3,716,000)	(\$2,637,000)
2034	(\$12,740,000)	(\$4,247,000)	(\$3,013,000)
2035	(\$14,333,000)	(\$4,778,000)	(\$3,390,000)
2036	(\$14,333,000)	(\$4,778,000)	(\$3,390,000)

Fiscal Analysis

The bill would amend the Insurance Code and the Tax Code to provide for tax credits for certain low-income housing developments.

Chapter 171, Tax Code (franchise tax) would be amended by adding Subchapter K to provide entitlement to a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development eligible for a federal low-income housing credit under Section 42, Internal Revenue Code (IRC).

The credits would be awarded by the Texas Department of Housing and Community Affairs (TDHCA) for qualified developments based on criteria to be established by the department. The amount of credits awarded for a qualified development could not exceed the total federal tax credit awarded to the owner(s) of the development over the ten-year federal tax credit period. The total amount of credits awarded in a year could not exceed \$25 million, plus any unallocated credits for the preceding year and any credits recaptured or returned to the department.

A taxable entity receiving a credit would claim the credit in equal installments each year of the ten-year period beginning with the tax year in which a building that is part of a qualified development is placed in service. The credit claimed could not exceed the amount of franchise tax due for a report year, but unused credit could be carried forward or backward to reports for other tax years.

TDHCA would include in the low income housing plan regarding the number of qualified developments for which credits were issued and the number of units supported by the developments and describing specified characteristics of the developments.

Subchapter K would expire on December 31, 2035.

Subtitle B, Title 3, Insurance Code (relating to premium taxes) would be amended by adding Chapter 233 to provide for credit against state premium tax liability incurred under Chapters 221 through 226. Provisions for the credit would parallel those for the credit under Subchapter K, Chapter 171, Tax Code as added by the bill.

TDHCA could begin issuing the franchise tax and premium tax credits January 1, 2024. Credits could first be claimed in tax reports originally due on or after January 1, 2026, and could not be carried back to tax reports originally due before that date.

Chapter 233 would expire on December 31, 2035.

The bill would take effect January 1, 2024.

Methodology

The bill provides that the total amount of state tax credit awards in a year may not exceed \$25 million, plus any unallocated credits for the preceding year and any credits recaptured or returned to the department. Furthermore, that the amount awarded in connection with any one qualified development does not exceed the total amount of federal tax credit awarded the owner(s) of the development over the ten-year federal tax credit period and that the state tax credits be claimed in equal installments distributed over a ten-year period.

This estimate assumes TDHCA would annually award the maximum credit amount allowed, \$25 million for all qualified developments, as provided by the bill. Therefore, the annual \$25 million cap amounts were divided into installments and distributed over ten-year intervals, with credit claims beginning in 2027, the third year following the initial year of award to allow time for project completions followed by project inspections and credit certifications by TDHCA. The total estimated credit claims were allocated between franchise tax and insurance premium taxes and the pertinent funds based on the same proportions that certified historic structure credits were claimed against those taxes for fiscal 2022.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 10, 2023

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1058 by Goldman (Relating to a franchise or insurance premium tax credit for certain housing developments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1058, As Introduced : an impact of \$0 through the biennium ending August 31, 2025.

However, the bill will result in a loss of revenue available for certification beginning in the biennium ending August 31, 2027.

Annual reductions in net tax revenue would reach \$25,000,000 upon full implementation of the bill.

General Revenue-Related Funds, Thirteen- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	(\$2,124,000)
2028	(\$4,247,000)
2029	(\$6,371,000)
2030	(\$8,493,000)
2031	(\$10,617,000)
2032	(\$12,740,000)
2033	(\$14,864,000)
2034	(\$16,987,000)
2035	(\$19,111,000)
2036	(\$21,233,000)

All Funds, Thirteen-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue (Loss) from General Revenue Fund</i>	<i>Probable Revenue (Loss) from Foundation School Fund</i>	<i>Probable Revenue (Loss) from Property Tax Relief Fund</i>
	1	193	304
2024	\$0	\$0	\$0
2025	\$0	\$0	\$0
2026	\$0	\$0	\$0
2027	(\$1,593,000)	(\$531,000)	(\$377,000)
2028	(\$3,185,000)	(\$1,062,000)	(\$753,000)
2029	(\$4,778,000)	(\$1,593,000)	(\$1,130,000)
2030	(\$6,370,000)	(\$2,123,000)	(\$1,507,000)
2031	(\$7,963,000)	(\$2,654,000)	(\$1,883,000)
2032	(\$9,555,000)	(\$3,185,000)	(\$2,260,000)
2033	(\$11,148,000)	(\$3,716,000)	(\$2,637,000)
2034	(\$12,740,000)	(\$4,247,000)	(\$3,013,000)
2035	(\$14,333,000)	(\$4,778,000)	(\$3,390,000)
2036	(\$15,925,000)	(\$5,308,000)	(\$3,767,000)

Fiscal Analysis

The bill would amend the Insurance Code and the Tax Code to provide for tax credits for certain low-income housing developments.

Chapter 171, Tax Code (franchise tax) would be amended by adding Subchapter K to provide entitlement to a franchise tax credit for a taxable entity that owns a direct or indirect interest in a qualified development eligible for a federal low-income housing credit under Section 42, Internal Revenue Code (IRC).

The credits would be awarded by the Texas Department of Housing and Community Affairs (TDHCA) for qualified developments based on criteria to be established by the department. The amount of credits awarded for a qualified development could not exceed the total federal tax credit awarded to the owner(s) of the development over the ten-year federal tax credit period. The total amount of credits awarded in a year could not exceed \$25 million, plus any unallocated credits for the preceding year and any credits recaptured or returned to the department.

A taxable entity receiving a credit would claim the credit in equal installments each year of the ten-year period beginning with the tax year in which a building that is part of a qualified development is placed in service. The credit claimed could not exceed the amount of franchise tax due for a report year, but unused credit could be carried forward or backward to reports for other tax years.

TDHCA would make an annual report to the legislature regarding the number of qualified developments for which credits were issued and the number of units supported by the developments and describing specified characteristics of the developments.

Subtitle B, Title 3, Insurance Code (relating to premium taxes) would be amended by adding Chapter 233 to provide for credit against state premium tax liability incurred under Chapters 221 through 226. Provisions for the credit would parallel those for the credit under Subchapter K, Chapter 171, Tax Code as added by the bill.

TDHCA could begin issuing the franchise tax and premium tax credits January 1, 2024. Credits could first be claimed in tax reports originally due on or after January 1, 2026, and could not be carried back to tax reports originally due before that date.

The bill would take effect January 1, 2024.

Methodology

The bill provides that the total amount of state tax credit awards in a year may not exceed \$25 million, plus any unallocated credits for the preceding year and any credits recaptured or returned to the department. Furthermore, that the amount awarded in connection with any one qualified development does not exceed the total amount of federal tax credit awarded the owner(s) of the development over the ten-year federal tax credit period and that the state tax credits be claimed in equal installments distributed over a ten-year period.

This estimate assumes TDHCA would annually award the maximum credit amount allowed, \$25 million for all qualified developments, as provided by the bill. Therefore, the annual \$25 million cap amounts were divided into installments and distributed over ten-year intervals, with credit claims beginning in 2027, the third year following the initial year of award to allow time for project completions followed by project inspections and credit certifications by TDHCA. The total estimated credit claims were allocated between franchise tax and insurance premium taxes and the pertinent funds based on the same proportions that certified historic structure credits were claimed against those taxes for fiscal 2022.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, KK, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

TAX/FEE EQUITY NOTE

88TH LEGISLATIVE REGULAR SESSION

March 10, 2023

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1058 by Goldman (Relating to a franchise or insurance premium tax credit for certain housing developments.), **As Introduced**

No statistically significant impact on the overall distribution of a state tax or fee burden among individuals and businesses is anticipated from the provisions of this bill.

Source

Agencies:

LBB Staff: JMc, KK